

Comparison: Washington State and new federal overtime rules

Employers and workers please note:

Employers must comply with both state and federal overtime rules. Where differences exist between Washington State and new federal overtime rules, an employer must follow the rule that is most favorable to the worker.

Exemptions from state and federal overtime requirements are determined on a case-by-case basis. This chart provides only general information. It does not contain a detailed list of affected job types and may not provide answers for specific jobs. Please check with the state Department of Labor and Industries or the U.S. Department of Labor at the contact locations listed below, or with a qualified consultant, to determine how changes in federal overtime requirements affect your specific circumstances.

Worker type (as defined by federal rules)	Federal requirements that must be met to be exempt from overtime pay	Differences between state and new federal rules
Employees who perform “executive” duties.	Must meet all four parts of the test in the federal rule to be exempt from overtime pay: 1) Paid at least \$455/wk on a salary basis; 2) Primary duty is managing the enterprise, or a customarily recognized department or subdivision of it; 3) Customarily and regularly directs the work of two or more other full-time employees or their equivalent; and 4) Has authority or input that is given particular weight over hiring and firing, promoting, or demoting employees.	Washington’s minimum salary for overtime-exempt workers is \$250/wk vs. the new federal minimum of \$455/wk. Also, state rules have a less stringent three-part executive short test.
Employees who perform “administrative” duties.	Must meet all parts of this three-part test in the federal rule: 1) Paid at least \$455/wk on a salary or fee basis; 2) Non-manual office work directly related to management or general operations of employer or employer’s customers; and 3) Primary duty includes discretion and independent judgment on matters of significance.	Washington’s minimum salary for overtime-exempt workers is \$250/wk vs. the new federal minimum of \$455/wk.

Worker type (as defined by federal rules)	New federal requirements that must be met to be exempt from overtime pay	Differences between state and new federal rules
<p>Employees classified as “learned professional.”</p> <p>Examples may include: CPAs, physician’s assistants, sous chefs, executive chefs, floral designers, athletic trainers recognized under a national association, some funeral directors (depending on education and licensing), commercial airline pilots, and registered nurses.</p>	<p>Must meet all parts of this four-part test in the federal rule:</p> <ol style="list-style-type: none"> 1) Paid at least \$455/wk on a salary or fee basis; 2) Primary duty must be the performance of work requiring advanced knowledge, defined as work that is predominantly intellectual in character and that requires the consistent exercise of discretion and judgment; 3) Advanced knowledge must be in a field of science or learning; and 4) Advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction. 	<p>Washington’s minimum salary for overtime-exempt workers is \$250/wk vs. the new federal minimum of \$455/wk.</p> <p>Washington does not specifically split professional into learned and creative subdivisions, but there is no difference in application.</p>
<p>Employees classified as “creative professional.”</p> <p>Examples may include: music, writing, acting and graphic arts, composers, conductors, soloists, painters, cartoonists, essayists, novelists, short-story writers, screenplay writers, responsible writing positions in advertising agencies, certain journalists.</p>	<p>Must meet all parts of this two-part test in the federal rule:</p> <ol style="list-style-type: none"> 1) Paid at least \$455/wk on a salary or fee basis; and 2) Primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor. 	<p>Washington’s minimum salary for overtime-exempt workers is \$250/wk vs. the new federal minimum of \$455/wk.</p>
<p>Employees classified as “computer-related occupations”</p>	<p>Must meet all of these requirements:</p> <ol style="list-style-type: none"> 1) Paid at least \$455/wk on a salary or fee basis <i>or</i> not less than \$27.63/hr, if paid hourly; 2) Must be employed as a computer systems analyst, computer programmer, software engineer, software developer or other similarly skilled worker in the computer field; and 3) Primary duty must consist of: <ul style="list-style-type: none"> • Application of systems analysis techniques and procedures to determine hardware, software or system-functional specifications; • Design development, documentation, analysis, creation, testing or modification of computer systems programs based on and related to user or system-design specifications; 	<p>Washington’s minimum salary for overtime-exempt workers is \$250/wk vs. the new federal minimum of \$455/wk.</p> <p>Washington’s requirement for computer professionals who are paid hourly is \$27.63/hr (same as federal).</p> <p>In order to be exempt from overtime, the state also requires employees to be highly skilled with a high degree of knowledge and ability to apply their knowledge, and to use discretion and judgment in the performance of their duties.</p>

	<ul style="list-style-type: none"> • The design, documentation, testing or modification of computer programs related to machine operating systems; or • A combination of the duties in item 3. 	
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Worker type (as defined by federal rules)	Federal requirements that must be met to be exempt from overtime pay	Differences between state and new federal rules
Outside sales employees	<p>Must meet all parts of this two-part test in the federal rule:</p> <ol style="list-style-type: none"> 1) Customarily and regularly engaged away from his/her employer's place or places of business; and 2) Primary duty must be making sales or obtaining orders or contracts for services (or the use of facilities) for which a consideration will be paid by the client or customer. 	<p>State rules require:</p> <ol style="list-style-type: none"> 1) The employee is engaged in making outside sales, obtaining orders or contracts, or demonstrating products away from the employer's place of business 2) Payment of a <i>guaranteed</i> salary, commission, or fee payment (or combination); 3) The outside sales person controls his/her total hours worked; and 4) No more than 20 percent inside office work not related to outside sales duties may be performed per workweek.
White-collar positions paying \$100,000 or more per year	Under the new federal rules, these highly compensated workers are exempt from overtime pay if they perform office or non-manual work, their total annual compensation of \$100,000 or more includes at least \$455 per week paid on a salary or fee basis, and they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard federal tests for exemption.	No similar provision in state rules.
Deductions for violation of workplace policies		
New federal rules	State rules	
The new federal rule allows an employer to impose <i>unpaid</i> disciplinary suspensions of <i>one or more full days</i> for workplace-conduct rule infractions.	<p>Washington State allows an <i>unpaid</i> disciplinary suspension in increments of less than one week <i>only</i> for violations of safety rules of major significance. Unpaid disciplinary suspensions for non-major safety violations cannot be in less than full-week increments.</p>	

For more information:

- **Interpretation of the new federal overtime rules:** The federal government has fact sheets addressing frequent questions about the new rule. You can find them at www.dol.gov/fairpay, or contact USDOL toll free at 1-866-487-9243 for detailed information.
- **Interpretation of state overtime rules/whether state rule is most stringent:**
If you have more detailed questions, you are welcome to:
 - Find information about Washington state labor regulations, plus the texts of laws and regulations, on the Internet at Wages.LNI.wa.gov.
 - Send e-mail to L&I's Employment Standards section at conw235@lni.wa.gov or call 360-902-5316.

Visit the L&I web site at www.LNI.wa.gov

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